

# Senate Daily Reader

# Wednesday, February 01, 2006

[illegible]

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

400M0229

## HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB 1048** - 01/17/2006

Introduced by: The Committee on Taxation at the request of the Department of Revenue and Regulation

1 FOR AN ACT ENTITLED, An Act to revise the reporting and remittance requirements for  
2 certain state taxes and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 10-59 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any person who holds a license issued pursuant to chapters 10-33A, 10-45, 10-45D, 10-  
7 46A, 10-46B, or 10-52A or who is a person whose receipts are subject to the tax imposed by  
8 chapters 10-33A, 10-45, 10-45D, 10-46A, 10-46B, or 10-52A shall, except as otherwise  
9 provided in this section, file a return, and pay any tax due, to the Department of Revenue and  
10 Regulation on or before the twentieth day of the month following each monthly period. The  
11 return shall be filed on forms prescribed and furnished by the department.

12 If the person remits the tax by electronic transfer to the state, the person shall file the return  
13 by electronic means on or before the twenty-third day of the month following each monthly  
14 period and remit the tax on or before the second to the last day of the month following each  
15 monthly period.



1 The secretary may require or allow a person to file a return, and pay any tax due, on a basis  
2 other than monthly and the return and remittance is due the last day of the month following the  
3 reporting period, or at time otherwise determined by the secretary.

4 The secretary of revenue and regulation may grant an extension of not more than five days  
5 for filing a return and remittance. However, the secretary of revenue and regulation may grant  
6 an extension for remitting the tax to a qualified business as provided in §§ 10-45-99 to 10-45-  
7 107, inclusive, for six months.

8 Unless an extension is granted, penalty or interest under § 10-59-6 shall be paid if a return  
9 or remittance is not made on time.

10 Section 2. That § 10-45-27 be repealed.

11 ~~10-45-27. Any person who is the holder of a sales tax permit or is a retailer whose receipts~~  
12 ~~are subject to sales tax in this state during the periods specified by this section shall make a~~  
13 ~~return and remittance to the Department of Revenue and Regulation on forms prescribed and~~  
14 ~~furnished by the department in the following manner:~~

15 ~~— (1) — Any person whose tax liability is one thousand dollars or more annually, shall file the~~  
16 ~~return and remit the tax on or before the twentieth day of the month following each~~  
17 ~~monthly period;~~

18 ~~— (2) — Any person whose tax liability is less than one thousand dollars annually, shall file~~  
19 ~~the return and remit the tax on or before the last day of the month following each~~  
20 ~~two-month period;~~

21 ~~— (3) — Any person whose tax liability is one thousand dollars or more annually and who~~  
22 ~~remits the tax by electronic transfer to the state, shall file the return by electronic~~  
23 ~~means on or before the twenty-third day of the month following each monthly period~~  
24 ~~and remit the tax on or before the second to the last day of the month following each~~

1           ~~monthly period.~~

2       ~~—The secretary of revenue and regulation may grant an extension of not more than five days~~  
3       ~~for filing a return and remittance. However, the secretary of revenue and regulation may grant~~  
4       ~~an extension for remitting the tax to a qualified business as provided in §§ 10-45-99 to 10-45-~~  
5       ~~107, inclusive, for six months.~~

6       ~~—Unless an extension is granted, penalty or interest under § 10-59-6 shall be paid if a return~~  
7       ~~or remittance is not made on time.~~

8       Section 3. That § 10-45D-10 be repealed.

9       ~~—10-45D-10. Any person who is subject to the tax imposed by §§ 10-45D-1 to 10-45D-14,~~  
10       ~~inclusive, shall make a return and remittance to the Department of Revenue and Regulation on~~  
11       ~~forms prescribed and furnished by the department in the following manner:~~

12       ~~—(1) Any person, whose tax liability is one thousand dollars or more annually, shall file~~  
13               ~~the return and remit the tax on or before the twentieth day of the month following~~  
14               ~~each monthly period;~~

15       ~~—(2) Any person, whose tax liability is less than one thousand dollars annually, shall file~~  
16               ~~the return and remit the tax on or before the last day of the month following each~~  
17               ~~two-month period; and~~

18       ~~—(3) Any person, whose tax liability is one thousand dollars or more annually and who~~  
19               ~~remits the tax by electronic transfer to the state, shall file the return by electronic~~  
20               ~~means on or before the twenty-third day of the month following each monthly period~~  
21               ~~and remit the tax on or before the second to the last day of the month following each~~  
22               ~~monthly period.~~

23       ~~—The secretary of revenue and regulation may grant an extension of not more than five days~~  
24       ~~for filing a return and remittance. Unless an extension is granted, penalty or interest under § 10-~~

~~59-6 shall be paid if a return or remittance is not made on time.~~

Section 4. That § 10-46A-1.6 be repealed.

~~10-46A-1.6. Any person who is the holder of a contractor's excise tax license or is a contractor whose receipts are subject to contractor's excise tax in this state during the periods specified by this section shall make a return and remittance to the Department of Revenue and Regulation on forms prescribed and furnished by the department in the following manner:~~

~~(1) Any person whose tax liability is one thousand dollars or more annually, shall file the return and remit the tax on or before the twentieth day of the month following each monthly period;~~

~~(2) Any person whose tax liability is less than one thousand dollars annually, shall file the return and remit the tax on or before the last day of the month following each two-month period;~~

~~(3) Any person whose tax liability is one thousand dollars or more annually and who remits the tax by electronic transfer to the state, shall file the return by electronic means on or before the twenty-third day of the month following each monthly period and remit the tax on or before the second to the last day of the month following each monthly period.~~

~~The secretary of revenue and regulation may grant an extension of not more than five days for filing a return and remittance. Unless an extension is granted, the person with the tax liability shall pay the penalty or interest as provided by § 10-59-6 if a return or remittance is not made on time.~~

Section 5. That § 10-46B-1.4 be repealed.

~~10-46B-1.4. Any person who is the holder of a contractor's excise tax license or is a contractor whose receipts are subject to contractor's excise tax in this state during the periods~~

1 ~~specified by this section shall make a return and remittance to the Department of Revenue and~~  
2 ~~Regulation on forms prescribed and furnished by the department in the following manner:~~

3 ~~—(1)— Any person whose tax liability is one thousand dollars or more annually, shall file the~~  
4 ~~return and remit the tax on or before the twentieth day of the month following each~~  
5 ~~monthly period;~~

6 ~~—(2)— Any person whose tax liability is less than one thousand dollars annually, shall file~~  
7 ~~the return and remit the tax on or before the last day of the month following each~~  
8 ~~two-month period;~~

9 ~~—(3)— Any person whose tax liability is one thousand dollars or more annually and who~~  
10 ~~remits the tax by electronic transfer to the state, shall file the return by electronic~~  
11 ~~means on or before the twenty-third day of the month following each monthly period~~  
12 ~~and remit the tax on or before the second to the last day of the month following each~~  
13 ~~monthly period.~~

14 ~~—The secretary of revenue and regulation may grant an extension of not more than five days~~  
15 ~~for filing a return and remittance. Unless an extension is granted, the person with the tax liability~~  
16 ~~shall pay the penalty or interest as provided by § 10-59-6 if a return or remittance is not made~~  
17 ~~on time.~~

18 Section 6. That § 10-52A-4 be repealed.

19 ~~—10-52A-4. Any person who is subject to the tax imposed by this chapter shall make a return~~  
20 ~~and remittance to the department on forms prescribed and furnished by the department in the~~  
21 ~~following manner:~~

22 ~~—(1)— Any person whose tax liability is one thousand dollars or more annually, shall file the~~  
23 ~~return and remit the tax on or before the twentieth day of the month following each~~  
24 ~~monthly period;~~

1 ~~— (2) Any person whose tax liability is less than one thousand dollars annually, shall file~~  
2 ~~the return and remit the tax on or before the last day of the month following each~~  
3 ~~two-month period; and~~

4 ~~— (3) Any person whose tax liability is one thousand dollars or more annually and who~~  
5 ~~remits the tax by electronic transfer to the state, shall file the return by electronic~~  
6 ~~means on or before the twenty-third day of the month following each monthly period~~  
7 ~~and remit the tax on or before the second to the last day of the month following each~~  
8 ~~monthly period.~~

9 ~~— The secretary of revenue and regulation may grant an extension of not more than five days~~  
10 ~~for filing a return and remittance. Unless an extension is granted, penalty or interest pursuant~~  
11 ~~to § 10-59-6 shall be paid if a return or remittance is not made on time.~~

12 Section 7. That § 10-33A-10 be repealed.

13 ~~— 10-33A-10. Any person who is the holder of a telecommunications gross receipts tax license~~  
14 ~~or is a telecommunications company whose receipts are subject to telecommunications gross~~  
15 ~~receipts tax in this state shall file a return and remit the tax on or before the twentieth day of the~~  
16 ~~month following each monthly period. If the telecommunications company files the return and~~  
17 ~~remits the tax by electronic transfer to the state, the telecommunications company shall file the~~  
18 ~~return and remit the tax on or before the last day of the month following each monthly period.~~

19 ~~— The secretary may grant an extension of not more than five days for filing a return and~~  
20 ~~remittance. Unless an extension is granted, penalty or interest under § 10-59-6 shall be paid if~~  
21 ~~a return or remittance is not made on time.~~

22 Section 8. That chapter 10-59 be amended by adding thereto a NEW SECTION to read as  
23 follows:

24 Any person licensed pursuant to chapter 10-33A, 10-45, 10-45D, 10-46A, 10-46B, or 10-

52A shall file the applicable tax return whether or not the person has gross receipts subject to tax.

Section 9. Any prior collection, appropriation, or distribution of the revenue consistent with the provisions of section 8 of this Act is hereby validated, ratified, and affirmed.

Section 10. That § 10-45-27.1 be repealed.

~~10-45-27.1. A person licensed pursuant to this chapter shall file the applicable tax return whether or not the person has gross receipts subject to tax.~~

Section 11. That § 10-45D-10.1 be repealed.

~~10-45D-10.1. A person licensed pursuant to this chapter shall file the applicable tax return whether or not the person has gross receipts subject to tax.~~

Section 12. That § 10-46A-8.1 be repealed.

~~10-46A-8.1. A person licensed pursuant to this chapter shall file the applicable tax return whether or not the person has gross receipts subject to tax.~~

Section 13. That § 10-46B-15.1 be repealed.

~~10-46B-15.1. A person licensed pursuant to this chapter shall file the applicable tax return whether or not the person has gross receipts subject to tax.~~

Section 14. That § 10-52A-4.1 be repealed.

~~10-52A-4.1. A person licensed pursuant to this chapter shall file the applicable tax return whether or not the person has gross receipts subject to tax.~~

Section 15. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

400M0324

## HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1051** - 01/13/2006

Introduced by: The Committee on Judiciary at the request of the Department of Social Services

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding notice to a tribe of  
2 a child custody proceeding subject to the Indian Child Welfare Act.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 26-7A-15 be amended to read as follows:

5 26-7A-15. The officer or party who takes a child into temporary custody, with or without  
6 a court order, except under a court order issued during a noticed hearing after an action has been  
7 commenced, shall immediately, without unnecessary delay in keeping with the circumstances,  
8 inform the child's parents, guardian, or custodian of the temporary custody and of the right to  
9 a prompt hearing by the court to determine whether temporary custody should be continued. If  
10 the child's parents, guardian, or custodian cannot be located after reasonable inquiry, the officer  
11 or party taking temporary custody of the child shall report that fact and the circumstances  
12 immediately to the state's attorney. The state's attorney shall notify the child's parents, guardian,  
13 or custodian, without unnecessary delay, of the time, date, and place of the temporary custody  
14 hearing. If the temporary custody hearing concerns an apparent abused or neglected Indian child,  
15 the state's attorney or Department of Social Services shall make reasonable efforts to inform the



1 Indian custodian and the designated tribal agent for the Indian child's tribe, if known, of the  
2 time, date, and place of the temporary custody hearing. The information regarding the temporary  
3 custody hearing may be provided to the Indian custodian or ~~Indian child's tribe~~ the designated  
4 tribal agent orally or in writing, including by telephone or facsimile. The hearing shall be held  
5 within forty-eight hours if it concerns any apparent abused or neglected child or if it concerns  
6 any apparent delinquent child pursuant to § 26-8C-3 or within twenty-four hours if it concerns  
7 any apparent child in need of supervision pursuant to § 26-8B-3, excluding Saturdays, Sundays,  
8 and court holidays, after taking the child into temporary custody, unless extended by order of  
9 the court. Failure to notify the child's parents, guardian, or custodian, or to inform the Indian  
10 custodian or the ~~Indian child's tribe~~ designated tribal agent, of the temporary custody hearing  
11 is not cause for delay of the hearing if the child is represented by an attorney at the hearing. As  
12 used in this section, the terms, Indian child, Indian custodian, and Indian child's tribe, are  
13 defined as in 25 U.S.C. § 1903, as amended to January 1, 2005.

14 Section 2. That chapter 26-7A be amended by adding thereto a NEW SECTION to read as  
15 follows:

16 As used in this chapter, the term, designated tribal agent, means the agent, agency, or entity  
17 designated by the tribe, through tribal code or resolution, to receive notices of child custody  
18 proceedings subject to the Indian Child Welfare Act. The tribe may provide, in writing, to the  
19 director of the Division of Child Protection Services, Department of Social Services, the name  
20 or title, address, telephone number, and facsimile number, if applicable, of the designated agent.  
21 The department shall make the information available electronically by posting the information  
22 on the department's website not later than ten business days after the information is received by  
23 the director. If a tribe does not designate a tribal agent for receipt of notice, notice shall be given  
24 in accordance with 25 C.F.R. 23.12.

Section 3. That § 26-7A-15.1 be amended to read as follows:

26-7A-15.1. In any proceeding under chapters 26-7A, 26-8A, or 26-8B, to which the terms of the "Indian Child Welfare Act", 25 U.S.C. § 1901 et seq., as amended to January 1, 2005, apply:

(1) If the state's attorney knows or has reason to know that an Indian child is involved, the state's attorney shall notify the parent or Indian custodian and the Indian child's tribe, if known, of the pending proceedings and of their right of intervention. The notice shall be sent by registered mail with return receipt requested but may be personally served on any person entitled herein to receive notice in lieu of mail service. The notice to the Indian child's tribe shall be sent to the designated tribal agent. However, if the tribe appears by counsel or by a representative of the tribe pursuant to § 26-8A-33, the notice shall be sent to counsel or to the representative, as applicable. If the identity or location of the parent or Indian custodian and the Indian child's tribe cannot be determined, the notice shall be given to the United States Secretary of the Interior and to the area director for the Bureau of Indian Affairs in like manner, who have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe;

(2) The state's attorney shall provide ~~such~~ the notice prior to any adjudicatory hearing and prior to any final dispositional hearing in which the state seeks termination of parental rights of one or both parents or termination of the rights of the Indian custodian. However, upon intervention, the parent, tribe, or Indian custodian is entitled to notice in the manner authorized by the Rules of Civil Procedure and chapters 26-7A and 26-8A. The notice shall be served on counsel for the tribe or the representative for the tribe pursuant to § 26-8A-33, as applicable;

1       (3)    The court shall establish in the record that a notice of the proceeding was provided  
2            as required in this section. No foster care placement or termination of parental rights  
3            proceedings may be held until at least ten days after receipt of the foregoing notice  
4            by the parent or Indian custodian and the tribe or the Secretary. The parent or Indian  
5            custodian or the tribe shall, upon request, be granted up to twenty additional days to  
6            prepare for the proceeding;

7       (4)    The notice required in this section shall be written in clear and understandable  
8            language and shall include the following:

9            (a)    The name and tribal affiliation, if known, of the Indian child;

10          (b)    A copy of the petition unless the notice is served by publication pursuant to  
11               § 26-7A-48;

12          (c)    The name and address of the state's attorney;

13          (d)    A statement listing the rights of the Indian child's parents, Indian custodians,  
14               and tribes, under the Indian Child Welfare Act, 25 U.S.C. § 1901, et. seq., as  
15               amended to January 1, 2005, including:

16               (I)    The right of a Indian custodian or the Indian child's tribe to intervene  
17                    in a proceeding for the foster care placement of, or termination of  
18                    parental rights to, the Indian child;

19               (ii)   The right to file a motion to transfer the proceeding to the tribal court  
20                    of the Indian child's tribe;

21               (iii)   The right to be granted up to twenty days from the receipt of the notice  
22                    to prepare for the proceeding; and

23               (iv)   The right to request that the court grant further extensions of time;

24          (e)    If the petition alleges the child to be an abused or neglected child, a statement

1                   that the termination of parental or custodial rights is a possible remedy under  
2                   the proceedings;

3                   (f)    A statement that if the Indian child's parents or Indian custodian are unable to  
4                   afford counsel, counsel may be appointed to represent them;

5                   (g)    A statement in the notice to the tribe that the information contained in the  
6                   notice, petition, pleading, or other documents are confidential; and

7                   (h)    The location, mailing address and telephone number of the court.

8                   The original or a copy of each notice sent pursuant to this section shall be filed with  
9                   the court together with any return receipts or other proof of service;

10                  (5)    Each party may examine all reports or other documents filed with the court upon  
11                   which any decision with respect to such action may be based.

12                  As used in this section, the terms, Indian, Indian child, parent, Indian custodian, tribe, Indian  
13                  child's tribe, foster care placement, termination of parental rights, and secretary, are defined as  
14                  in 25 U.S.C. § 1903, as amended to January 1, 2005.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

671M0139

## HOUSE ENGROSSED NO. **HJR 1002** - 01/17/2006

Introduced by: Representatives Michels, Haley, Heineman, Hunhoff, and Putnam and  
Senators Olson (Ed), Broderick, Gray, Peterson (Jim), and Schoenbeck at the  
request of the Constitutional Revision Commission

1 A JOINT RESOLUTION, To repeal certain voided constitutional provisions regarding term  
2 limits for United States senators and representatives.

3 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF SOUTH  
4 DAKOTA, THE SENATE CONCURRING THEREIN:

5 Section 1. That at the next general election held in the state, the repeal of Article III, section  
6 32 of the Constitution of the State of South Dakota, as set forth in section 2 of this Joint  
7 Resolution, which is hereby agreed to, shall be submitted to the electors of the state for  
8 approval.

9 Section 2. That Article III, section 32 of the Constitution of the State of South Dakota, be  
10 repealed.

11 § 32. ~~Commencing with the 1992 election, no person may be elected to more than two~~  
12 ~~consecutive terms in the United States senate or more than six consecutive terms in the United~~  
13 ~~States house of representatives.~~



# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

257M0080

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HJR 1003** - 01/27/2006

Introduced by: Representatives Michels, Haley, Heineman, Hunhoff, and Putnam and  
Senators Olson (Ed), Broderick, Gray, Peterson (Jim), and Schoenbeck at the  
request of the Constitutional Revision Commission

1 A JOINT RESOLUTION, To revise certain constitutional provisions regarding the Legislature.  
2 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF SOUTH  
3 DAKOTA, THE SENATE CONCURRING THEREIN:

4 Section 1. That at the next general election, the following amendments to Article III and  
5 Article IV of the Constitution of the State of South Dakota, as set forth in sections 2 to 10,  
6 inclusive, of this Joint Resolution, which are hereby agreed to, shall be submitted to the electors  
7 of the state for approval.

8 Section 2. That Article III, section 2 of the Constitution of the State of South Dakota, be  
9 amended to read as follows:

10 § 2. ~~After the Legislature elected for the years 1937 and 1938 the~~ The number of members  
11 of the house of representatives shall not be less than fifty nor more than seventy-five, and the  
12 number of members of the senate shall not be less than twenty-five nor more than thirty-five.

13 ~~The sessions of the Legislature shall be biennial except as otherwise provided in this~~  
14 ~~Constitution.~~



Section 3. That Article III, section 6 of the Constitution of the State of South Dakota, be amended to read as follows:

§ 6. The terms of office of the members of the Legislature shall be two years; they shall receive for their services the salary fixed by law under the provisions of § 2 of article XXI of this Constitution, ~~and five cents for every mile of necessary travel in going to and returning from the place of meeting of the Legislature on the most usual route.~~

No person may serve more than four consecutive terms or a total of eight consecutive years in the senate and more than four consecutive terms or a total of eight consecutive years in the house of representatives. However, this restriction does not apply to partial terms to which a legislator may be appointed ~~or to legislative service before January 1, 1993.~~

A regular session of the Legislature shall ~~be held in each odd-numbered year and shall not exceed forty legislative days, excluding Sundays, holidays, and legislative recess, except in cases of impeachment, and members~~ not exceed forty legislative days in each odd-numbered year and shall not exceed thirty-five legislative days in each even-numbered year except in cases of impeachment. Sundays, holidays, and days of legislative recess shall not be included as legislative days. Members of the Legislature shall receive no other pay or perquisites except salary, expenses, per diem, and mileage as provided by law.

~~A regular session of the Legislature shall be held in each even-numbered year beginning with the year 1964 and shall not exceed thirty-five legislative days, excluding Sundays, holidays and legislative recess, except in cases of impeachment, and members of the Legislature shall receive no other pay or perquisites except salary and mileage.~~

Section 4. That Article III, section 13 of the Constitution of the State of South Dakota, be amended to read as follows:

§ 13. Each house shall keep a journal of its proceedings and publish the same ~~from time to~~



1 ~~time, except such parts as require secrecy, and the~~ as provided by law. The yeas and nays of  
2 members on any question shall be taken at the desire of one-sixth of those present and entered  
3 upon the journal.

4 Section 5. That Article III, section 14 of the Constitution of the State of South Dakota, be  
5 amended to read as follows:

6 § 14. In all elections to be made by the Legislature the members thereof shall vote ~~viva voce~~  
7 and their votes shall be entered in the journal.

8 Section 6. That Article III, section 15 of the Constitution of the State of South Dakota, be  
9 amended to read as follows:

10 § 15. ~~The sessions of each house and of the committee of the whole shall be open, unless~~  
11 ~~when the business is such as ought to be kept secret~~ All legislative sessions, joint sessions, and  
12 committee meetings shall be open to the public unless a two-thirds majority of the membership  
13 declares the business is such as ought to be kept secret. No votes may be taken at any session  
14 or meeting closed to the public.

15 Section 7. That Article III, section 17 of the Constitution of the State of South Dakota, be  
16 amended to read as follows:

17 § 17. Every bill shall be ~~read twice~~ entered upon the journal, by number and title ~~once~~, when  
18 introduced; and ~~once upon~~ shall be read, by number and title, prior to final passage, ~~but one~~  
19 ~~reading at length may be demanded at any time before final passage.~~

20 Section 8. That Article III, section 29 of the Constitution of the State of South Dakota, be  
21 amended to read as follows:

22 § 29. Notwithstanding any general or special provisions of the Constitution, in order to  
23 insure continuity of state and local governmental operations in periods of emergency resulting  
24 from ~~disasters~~ a natural or man-made disaster or a disaster caused by enemy attack, the

1 Legislature shall have the power and the immediate duty ~~(1)~~ to provide for prompt and  
2 temporary succession to the powers and duties of public offices, of whatever nature and whether  
3 filled by election or appointment, the incumbents of which may become unavailable for carrying  
4 on the powers and duties of such offices, and ~~(2)~~ to adopt such other measures as may be  
5 necessary and proper for insuring the continuity of governmental operations. In the exercise of  
6 the powers hereby conferred the Legislature shall in all respects conform to the requirements  
7 of this Constitution except to the extent that in the judgment of the Legislature so to do would  
8 be impracticable or would admit of undue delay.

9 Section 9. That Article III be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 § 33. The members of the senate shall elect one member to preside as president of the  
12 senate.

13 The members of the house of representatives shall elect one member to preside as speaker  
14 of the house of representatives.

15 Section 10. That Article IV, section 5 of the Constitution of the State of South Dakota, be  
16 amended to read as follows:

17 § 5. ~~The lieutenant governor shall be president of the senate but shall have no vote unless~~  
18 ~~the senators be equally divided.~~ The lieutenant governor shall perform the duties and exercise  
19 the powers that may be delegated to him by the Governor.

20 Section 11. The provisions of sections 9 and 10 of this Joint Resolution are effective  
21 January 1, 2011.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

556M0502

## SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 156** - 01/30/2006

Introduced by: Senators Hansen (Tom), Adelstein, Bogue, Duniphan, Knudson, Koetzle, Kooistra, Lintz, McCracken, Moore, Olson (Ed), and Schoenbeck and Representatives Hennies, Boomgarden, Bradford, Brunner, Buckingham, Cutler, Davis, Deadrick, Dennert, Dykstra, Elliott, Faehn, Frost, Fryslie, Garnos, Gassman, Gillespie, Glenski, Hackl, Haley, Halverson, Hanks, Hargens, Haverly, Heineman, Hills, Howie, Hunhoff, Jensen, Jerke, Klaudt, Kraus, Krebs, Kroger, Lange, McCoy, McLaughlin, Michels, Murschel, Novstrup, Pederson (Gordon), Peters, Putnam, Rausch, Rave, Rhoden, Rounds, Schafer, Sebert, Sigdestad, Street, Tidemann, Turbiville, Van Etten, Vehle, Weems, Wick, and Willadsen

1 FOR AN ACT ENTITLED, An Act to prohibit the picketing of funerals under certain  
2 circumstances, to provide penalties for the violation thereof, and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. No person may engage in any act of picketing that is likely to cause emotional  
5 distress to any family member who is privately and peacefully mourning the loss of a deceased  
6 relative during the period from one hour before the scheduled commencement of the funeral  
7 services until one hour after the actual completion of the funeral services.

8 Any violation of this section is a Class 2 misdemeanor. Each day on which a person violates  
9 this section constitutes a separate offense.

10 Section 2. Notwithstanding the criminal penalties provide in section 1 of this Act, the circuit  
11 court may enjoin conduct proscribed by section 1 of this Act and may in any such proceeding



1     award damages, including attorney fees, or other appropriate relief against any person who is  
2     repeatedly found guilty of actions made unlawful by section 1 of this Act.

3         Section 3. For the purposes of this Act, funeral services are any ceremony, procession,  
4     memorial, or burial at a church, private home, funeral parlor, mortuary, or cemetery.

5         Section 4. Whereas, this Act is necessary for the immediate preservation of the public peace,  
6     health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and  
7     effect from and after its passage and approval.

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

655M0593

## SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 159** - 01/30/2006

Introduced by: Senators Gray, Abdallah, Broderick, Kelly, Knudson, Moore, Olson (Ed),  
Smidt, and Sutton (Dan) and Representatives Cutler, Haley, Hargens,  
Hennies, Jensen, and Turbiville

1 FOR AN ACT ENTITLED, An Act to prohibit certain civil penalties on dishonored checks and  
2 to revise the duties of the state's attorneys with respect thereto.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 22-30A-33 be amended to read as follows:

5 22-30A-33. If the drawer of a check does not pay the fees and costs provided for in § 57A-3-  
6 421 and the amount of the check to the holder of the check within thirty days of the mailing of  
7 the notice of dishonor, the drawer shall owe to the holder of the check an additional civil penalty  
8 equal to twice the amount of the check. The state's attorney may then prosecute the dishonor.  
9 No state's attorney may collect a civil penalty for prosecuting the dishonor. No state's attorney  
10 may assign a check for civil collection for violation of §§ 22-30A-24 or 22-30A-25.

